

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE

Teddy Tweed,

Plaintiff,

Case No.

v.

Diversified Consultants, Inc.,

Complaint and Demand for Jury Trial

Defendant.

COMPLAINT

TEDDY TWEED (“Plaintiff”), by his attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against DIVERSIFIED CONSULTANTS, INC. (“Defendant”):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. §1692 *et seq.* (“FDCPA”).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States District Court without regard to the amount in controversy,” and 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

3. Defendant conducts business in the State of Tennessee and therefore, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391 (b)(1) and (b)(2).

PARTIES

5. Plaintiff is a natural person residing in Greeneville, Tennessee 37744.

6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. §1692a(3).

7. Defendant is a corporation with its principal place of business located at 10550

Deerwood Park Blvd, Suite 309, Jacksonville, Florida 32256.

8. Defendant is a “debt collector” as that term is defined by 15 U.S.C. §1692a(6).

9. Debt collection is the principal purpose of Defendant's business.

10. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

11. Defendant placed repeated harassing telephone calls to Plaintiff over the course of several months attempting to collect an alleged debt.

12. The alleged debt was incurred for personal, family, or household purposes.

13. Frustrated by the repeated calls, Plaintiff spoke to Defendant soon after the calls began and demanded Defendant stop calling him.

14. Once Defendant was aware that its calls were unwanted and to stop, there was no lawful purpose to making further calls, nor was there any good faith reason to place calls.

15. Further, any continued calls could only have been placed with the intent to harass Plaintiff.

16. Despite Plaintiff's clear demand to refrain from contacting him, Defendant persisted in calling Plaintiff.

17. Defendant's incessant collection calls were upsetting, unwanted and irritating for Plaintiff to endure, particularly since Plaintiff's wife was sick during this time.

18. As a result of the excessive calls received, Plaintiff was forced to change his telephone number.

19. Defendant's actions as described herein were taken with the intent to harass, upset, and coerce Plaintiff to pay the alleged debt.

COUNT I

20. Plaintiff incorporates the foregoing paragraphs as though the same were set forth at length herein.

21. Section 1692d of the FDCPA prohibits debt collectors from engaging in any conduct the natural consequence of which is to harass, oppress or abuse any person, in connection with the collection of a debt.

22. Section 1692d(5) of the FDCPA prohibits debt collectors from causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

23. Defendant violated both Section 1692d and 1692d(5) of the FDCPA when it placed repeated harassing telephone calls to Plaintiff and when it continued to call knowing that its calls were unwanted.

WHEREFORE, Plaintiff, TEDDY TWEED, respectfully prays for a judgment as follows:

- a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
- b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and
- e. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, TEDDY TWEED, demands a jury trial in his case.

RESPECTFULLY SUBMITTED,

KIMMEL & SILVERMAN, P.C..

DATED: January 9, 2020

By: /s/ Amy L. Bennecoff Ginsburg
Amy L. Bennecoff Ginsburg
Kimmel & Silverman, P.C
30 East Butler Pike
Ambler, PA 19002
Telephone: (215) 540-8888
Facsimile (215) 540-8817
Email: aginsburg@creditlaw.com